

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

HARRELL HAMMELL,)	
)	
Petitioner,)	
)	
v.)	Case No.: 2:18-cv-00758-AKK-JEO
)	
CHRISTOPHER GORDY, Warden, et)	
al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

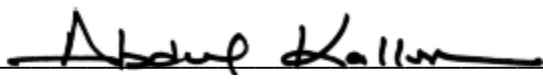
Petitioner Harrell Hammell filed this action for a writ of habeas corpus, *pro se*, on May 18, 2018. Doc. 1. Hammell challenges his September 2009 conviction and sentence for capital murder. *Id.* On November 28, 2018, the magistrate judge entered a report recommending the petition be dismissed with prejudice because Hammell's claims are untimely and procedurally defaulted. Doc. 6. The magistrate judge notified Hammell of his right to file objections to the report and recommendation. *See id.* at 12-13. In response, Hammell filed a document titled "Amended Complaint," which the court construes as an opposition to the report and recommendation.¹ Doc. 7.

¹ After receipt of the respondent's answer, Hammell was advised of his right to file materials in opposition. Doc. 4. He submitted a signed and dated copy of his original petition. Doc. 5. In response to the report and recommendation, Hammell filed an "Amended Complaint," doc. 7, which is substantially the same petition filed a third time. It raises no new claims and no objections to the report and recommendation.

Hammell disputes neither the finding that this petition is untimely under the one-year limitations period set forth in 28 U.S.C. § 2244(d), nor the finding that his current grounds for relief are procedurally defaulted. Rather, he once again details perceived constitutional errors he contends occurred during his arrest and prosecution for the underlying convictions.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the response thereto, the magistrate judge's report is hereby **ADOPTED** and his recommendation is **ACCEPTED**. Accordingly, the petition for writ of habeas corpus is due to be **DISMISSED WITH PREJUDICE**. Further, because the petition does not present issues that are debatable among jurists of reason, a certificate of appealability is also due to be **DENIED**. *See* 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000); Rule 11(a), *Rules Governing § 2254 Proceedings*. A separate Final Judgment will be entered.

DONE the 21st day of December, 2018.



ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE